

Mojave Desert
Air Quality Management District



Staff Report
Proposed Amendments to
Rule 301 – *Permit Fees*

Heard May 24, 2010, 2010
Continued to June 28, 2010

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STAFF REPORT
TABLE OF CONTENTS
Rule 301 – Permit Fees

I. PURPOSE OF STAFF REPORT	1
II. EXECUTIVE SUMMARY	1
III. STAFF RECOMMENDATION	1
IV. LEGAL REQUIREMENTS CHECKLIST	2
V. DISCUSSION OF LEGAL REQUIREMENTS	3
A. REQUIRED ELEMENTS/FINDINGS	3
1. State Findings Required for Adoption of Rules & Regulations	3
a. Necessity	3
b. Authority	3
c. Clarity	3
d. Consistency	3
e. Non-duplication	4
f. Reference	4
g. Public Notice & Comment, Public Hearing	4
2. Federal Elements (SIP Submittals, Other Federal Submittals)	4
B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS	4
C. ECONOMIC ANALYSIS	5
1. General	5
2. Incremental Cost Effectiveness	5
D. ENVIRONMENTAL ANALYSIS (CEQA)	5
E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS	6
1. Potential Environmental Impacts	6
2. Mitigation of Impacts	6
3. Alternative Methods of Compliance	6
F. PUBLIC REVIEW	6
VI. TECHNICAL DISCUSSION	6
A. SOURCE DESCRIPTION	6
B. EMISSIONS	6
C. CONTROL REQUIREMENTS	6
D. PROPOSED RULE SUMMARY	6
E. HISTORICAL FINANCIAL BACKGROUND	7
Appendix A - Iterated Version	A-1
Appendix B - Public Notice Documents	B-1
Appendix C - Public Comments and Responses	C-1
Appendix D - California Environmental Quality Act Documentation	D-1
Appendix E - Bibliography	E-1

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STAFF REPORT

Rule 301 – *Permit Fees*

I. PURPOSE OF STAFF REPORT

A staff report serves several discrete purposes. Its primary purpose is to provide a summary and background material to the members of the Governing Board. This allows the members of the Governing Board to be fully informed before making any required decision. It also provides the documentation necessary for the Governing Board to make any findings, which are required by law to be made prior to the approval or adoption of a document. In addition, a staff report ensures that the correct procedures and proper documentation for approval or adoption of a document have been performed. Finally, the staff report provides evidence for defense against legal challenges regarding the propriety of the approval or adoption of the document.

II. EXECUTIVE SUMMARY

On 07/01/93 the MDAQMD was formed pursuant to statute. The version of Rule 301 as amended on 01/01/90 was the rule in effect at this time. Rule 301 has been subsequently amended 10/23/94, 03/24/97, 09/28/98, 06/26/00, 09/23/02, 08/23/04, 06/27/05, 10/23/06, 06/25/07, and 06/23/08. The 06/23/08 version is the current version in the MDAQMD rulebook.

In order to maintain the MDAQMD's sound financial standing, staff recommends the current proposed amendments to Rule 301 to adjust fees in the amount of 2.0% to reflect the CPI increase derived from the CPI of the Los Angeles-Riverside-Orange County, CA area (rounded to the nearest whole percent) for the percent change to February 2010 from February 2009. Such CPI adjustment is recommended to account for the effect of inflation on the MDAQMD's revenue and costs and to minimize potential future fee adjustments.

Public hearings on the budget and proposed fee adjustment will be held on 05/24/10 and 06/28/10 for members of industry and the general public. Proposed amended Rule 301 will be made available for public comments and appropriate notices will be published on 04/23/10 in compliance with the 30-day notice and comment period requirement.

To allow time to implement the proposed fee changes in the computerized billing system, this amendment is proposed to be effective on 01/01/11.

III. STAFF RECOMMENDATION

Staff recommends that the Governing Board of the Mojave Desert Air Quality Management District (District) adopt the proposed amendments to Rule 301 – *Permit Fees* and approve the appropriate CEQA documentation. This action is necessary to maintain the MDAQMD's sound financial standing.

IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct amendments to Rule 301 – *Permit Fees*. Each item is discussed, if applicable, in Section V. Copies of related documents are included in the appropriate appendices.

FINDINGS REQUIRED FOR RULES & REGULATIONS:

- X Necessity
- X Authority
- X Clarity
- X Consistency
- X Non-duplication
- X Reference
- X Public Notice & Comment
- X Public Hearing

REQUIREMENTS FOR STATE IMPLEMENTATION PLAN SUBMISSION (SIP):

- N/A Public Notice & Comment
- N/A Availability of Document
- N/A Notice to Specified Entities (State, Air Districts, USEPA, Other States)
- N/A Public Hearing
- N/A Legal Authority to adopt and implement the document.
- N/A Applicable State laws and regulations were followed.

ELEMENTS OF A FEDERAL SUBMISSION:

- N/A Elements as set forth in applicable Federal law or regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS (CEQA):

- N/A Ministerial Action
- X Exemption
- N/A Negative Declaration
- N/A Environmental Impact Report
- X Appropriate findings, if necessary.
- X Public Notice & Comment

SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):

- X Environmental impacts of compliance.
- N/A Mitigation of impacts.
- N/A Alternative methods of compliance.

OTHER:

- X Written analysis of existing air pollution control requirements
- X Economic Analysis
- X Public Review

V. DISCUSSION OF LEGAL REQUIREMENTS

A. REQUIRED ELEMENTS/FINDINGS

This section discusses the State of California statutory requirements that apply to the proposed amendments to Rule 301. These are actions that need to be performed and/or information that must be provided in order to amend the rule in a procedurally correct manner.

1. State Findings Required for Adoption of Rules & Regulations:

Before adopting, amending, or repealing a rule or regulation, the District Governing Board is required to make findings of necessity, authority, clarity, consistency, non-duplication, and reference based upon relevant information presented at the hearing. The information below is provided to assist the Board in making these findings.

a. Necessity:

The proposed amendments to Rule 301 are necessary to reflect changes in the CPI and to maintain MDAQMD's sound financial standing.

b. Authority:

The District has the authority pursuant to California Health and Safety Code (H&S Code) §40702 to adopt, amend or repeal rules and regulations. The MDAQMD also has the authority to adopt and amend annual fees for the evaluation, issuance and renewal of permits (H&S Code §42311).

c. Clarity:

Any person or organization applying for and/or holding an MDAQMD Authority to Construct (ATC) or Permit to Operate (PTO) is affected by the proposed amendments to Rule 301. The proposed amendments to Rule 301 are clear in that they are written so that the persons subject to the Rule can easily understand the meaning.

d. Consistency:

The proposed amendments to Rule 301 are in harmony with, and not in conflict with or contradictory to any state law or regulation, federal law or regulation, or court decisions because H&S Code §§41512.7 and 42311(a) provide that an air district may adopt a schedule of annual fees for the evaluation, issuance, and renewal of

permits to cover the cost of district programs related to stationary sources.

e. Non-duplication:

The proposed amendments to Rule 301 do not impose the same requirements as any existing state or federal law or regulation because H&S Code 42311 and various other sections merely authorize the imposition of such fees but do not specify the types and amounts of fees to be imposed.

f. Reference:

The District has the authority pursuant to H&S Code §40702 to adopt, amend or repeal rules and regulations and the authority pursuant to H&S Code §42311 to adopt a schedule of annual fees.

g. Public Notice & Comment, Public Hearing:

Notice for the public hearing for the proposed amendments to Rule 301 appropriate notices will be published on 04/23/10. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, and District responses.

2. Federal Elements (SIP Submittals, Other Federal Submittals).

Submittals to USEPA are required to include various elements depending upon the type of document submitted and the underlying federal law that requires the submittal. Rule 301 is a fee rule and does not ordinarily require submission to USEPA. Various prior versions of Rule 301 were previously included in the State Implementation Plan (SIP) however USEPA removed this rule from the SIP on 1/18/02 (67 FR 2573; 40 CFR 52.220(c)(39)(iv)(C)). Therefore, this rule is not required to be a federal submittal.

B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS

H&S Code §40727.2 requires air districts to prepare a written analysis of all existing federal air pollution control requirements that apply to the same equipment or source type as the rule proposed for modification by the district. The proposed amendments to Rule 301 only modify fees and do not in themselves impose air pollution control requirements. Therefore the preparation of a written analysis of existing pollution control requirements that apply to the same equipment or source type is not required.

C. ECONOMIC ANALYSIS

1. General.

Fees are a primary revenue source that supports the District's efforts to implement and enforce the provisions of the Federal Clean Air Act, the California Clean Air Act and District Rules and Regulations. Permit fee schedules reflect the expenditure required to provide analysis of applications, inspections of the regulated community, tracking the inventory of pollutants produced by the regulated industry, and enforcement of federal, state and local mandates regarding air pollution among other mandatory District functions.

The proposed amendments to Rule 301 provide for an overall increase of 2.0% in the costs of most permit-related fees. This amount is to reflect the CPI increase derived from the Los Angeles-Riverside-Orange County, CA area (rounded to the nearest whole percent) for the percent change to February 2010 from February 2009. For ease of administration and to avoid public confusion the increased application fees, change of owner fees and duplicate permit fees have been rounded to the nearest dollar. The proposed 2.0% permit fee adjustment for FY 2010-2011 commencing 01/01/11 is projected to result in additional revenue to the MDAQMD of approximately \$81,040. This amount was calculated on total revenue from FY 2009/2010 combined application, operating permit, and Title V fee revenues of \$4,022,800 under the existing fee structure.

2. Incremental Cost Effectiveness.

Pursuant to H&S Code §40920.6, incremental cost effectiveness calculations are required for rules and regulations which are adopted or amended to meet the California Clean Air Act requirements for Best Available Retrofit Control Technology (BARCT) or "all feasible measures" to control volatile compounds, oxides of nitrogen or oxides of sulfur. The proposed amendments to Rule 301 only affect fees and therefore do not require this analysis.

D. ENVIRONMENTAL ANALYSIS (CEQA)

1. Through the process described below the appropriate CEQA process for the proposed amendments to Rule 301 were determined.
 - a. The proposed amendments to Rule 301 meet the CEQA definition of "project". They are not "ministerial" actions.
 - b. The proposed amendments to Rule 301 are exempt from CEQA review. There is no potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts because the proposed amendment only adjusts fees. Therefore, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies. Copies of the documents relating to CEQA can be found in Appendix "D".

E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS

1. Potential Environmental Impacts

The proposed amendments do not have any potential environmental impacts because they merely adjust fees and do not have any impact upon emissions of air contaminants.

2. Mitigation of Impacts

N/A

3. Alternative Methods of Compliance

N/A

F. PUBLIC REVIEW

See Staff Report Section (V)(A)(1)(g) and (2)(b), as well as Appendix “B”

VI. TECHNICAL DISCUSSION

A. SOURCE DESCRIPTION

Any person or organization applying for and/or holding an MDAQMD ATC or PTO is affected by the proposed amendments to Rule 301.

B. EMISSIONS

The proposed amendments to Rule 301 only adjust fees and thus will have no impact on emissions.

C. CONTROL REQUIREMENTS

The proposed amendments to Rule 301 only adjust fees and thus do not impose any new or additional control requirements.

D. PROPOSED RULE SUMMARY

This section gives a brief overview of the proposed amendments to Rule 301.

(A)(4) – This subsection is amended to provide an effective date of 01/01/11 to the most current proposed amendments.

(C)(1)(a) – A CPI adjustment of 2.0% and rounded up to the nearest dollar is added to the application filing fee.

(C)(2)(c)(i) – A CPI adjustment of 2.0% and rounded up to the nearest dollar is added to the labor rate.

(C)(6)(b)(i) – A CPI adjustment of 2.0% and rounded up to the nearest dollar is added to the change of ownership fee.

(C)(9)(b) – A CPI adjustment of 2.0% and rounded down to the nearest dollar is added to the signed duplicate or corrected permit fee.

(E) – A CPI adjustment increases all fees in this section by 2.0%

E. HISTORICAL FINANCIAL BACKGROUND

The MDAQMD was formed in 1993 by an act of the Legislature to assume the duties of the former San Bernardino County Air Pollution Control District. The MDAQMD also assumed all the property and assets of the former district. In addition, for the first 2 years the district utilized 100% of the available motor vehicle fee funding (AB2766 funds) and reserves to cover operations and formation expenses. On 10/23/94 the Governing Board amended Rule 301 to add a one time 7.44% fee surcharge on permit fees to provide additional funding to cover district formation costs. This surcharge expired in October 1995.

In fiscal year 1995/1996 the Governing Board established an allocation program for the AB2766 funds such that 50% of the funding was utilized by the District, 25% was passed through to the cities and 25% was used to fund a competitive grant program for transportation and mobile source related projects. During that fiscal year staff began to focus on technology and automation improvements as one method to control costs. To this end an internal accounting system was implemented and the development of a permit billing system that was separate from the County of San Bernardino was commenced. Discretionary spending was also substantially curtailed. On 03/24/97 the Governing Board amended Rule 301 to remove the expired surcharge and to eliminate fees for late payments. Many air districts utilize such late fees as a deterrent and gain substantial revenue in the process. The MDAQMD is the only air district that does not charge this type of fee. Despite gains in efficiency due to automation and a decrease in spending, by the end of Fiscal Year 1996/1997 the MDAQMD's books were closed with a deficit of \$196,000, there were no reserves and revenue was declining.

The Governing Board adopted an austerity budget for fiscal year 1997/1998. In July of 1997 the MDAQMD obtained a contract for provision of services to the newly formed Antelope Valley Air Pollution Control District (AVAPCD). The services were provided to AVAPCD with a moderate surcharge on staff labor and a contract management fee. In June of 1998 the MDAQMD took the drastic step of reducing 6 positions for an approximate savings of \$210,000. In addition, the permit billing system was put on line further improving automation and resulting in additional cost savings.

In fiscal year 1998/1999 the economy was improving and as a result revenue was increasing. The AVAPCD contract continued to provide a reliable source of revenue and funded 7 full time equivalent positions. On 09/28/98 the Governing Board amended Rule 301 to provide a 5% across the board adjustment in fees. It also reorganized the fee rule to incorporate the existing surcharges on application and annual permit fees into the fee

amounts themselves for ease of use. Austerity measures remained in force and the MDAQMD began to rebuild cash reserves.

On 06/26/00 the Governing Board amended Rule 301 to provide a 2.8% CPI adjustment. This action also revised the fee calculation procedure for gas stations to reflect a technological change to gasoline dispensing units. A fee was also added to cover the costs of processing landfill permits that were required by Federal Law. There was no immediate revenue impact of the landfill fee, however, because none of the active landfills within the District were required to install gas collection systems under the Federal regulation.

By fiscal year 2000/2001 the MDAQMD was again on sound financial footing. There was a \$500,000 reserve. Staffing levels were stabilized as well as automation; careful monitoring of expenditures and the continuation of the AVAPCD (now Antelope Valley Air Quality Management District (AVAQMD)) contract enabled the MDAQMD to regain its financial health while maintaining a high quality of service to its permit holders. To ensure the continuation of this financial health, on 09/23/02 the Governing Board amended 301 to provide a 2.4% CPI adjustment effective on 11/01/02. On 08/23/04 the Governing Board further amended 301 to provide a 2.75% CPI adjustment effective 01/01/05. On 06/27/05 the Governing Board amended Rule 301 to provide a 3.5% CPI adjustment with an effective date of 01/01/06. On 10/23/06 the Governing Board amended Rule 301 to provide a 4.0% CPI adjustment with an effective date of 01/01/07. On 06/25/07 and effective 01/01/08, the Governing Board again adjusted the fees 3.5% to reflect the change in the CPI. The District is now proposing to amend Rule 310 to provide a 2.0% CPI adjustment effective 01/01/11.

A CPI adjustment will keep district fee revenue in line with the costs of doing business. It will avoid the potential for a larger fee increase in the future and will avoid the potential for future staff reductions and resultant reduction in service levels. It also will help prepare for any reduction or elimination in the AVAQMD contract. It will enable the district to continue to maintain adequate reserves. Staff is recommending a CPI fee increase in the amount of 2.0%.

Appendix “A”

Rule 301 - *Permit Fees* Iterated Version

The iterated version is provided so that the changes to an existing rule may be easily found. The manner of differentiating text is as follows:

1. Underlined text identifies new or revised language.
2. ~~Lined out text~~ identifies language that is being deleted.
3. Normal text identifies the current language of the rule which will remain unchanged by the adoption of the proposed amendments.
4. [*Bracketed italicized text*] is explanatory material that is not part of the proposed language. It is removed once the proposed amendments are adopted.

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(Adopted: 07/09/76; Amended: 01/07/77; CARB Ex.
Ord. G-73: 02/01/77; Readopted: 07/25/77; Amended: 08/22/85;
Amended: 11/20/89; Amended: 01/01/90; Amended: 10/23/94;
Amended: 03/24/97; Amended: 09/28/98; Amended: 06/26/00;
Amended: 09/23/02; Amended: 08/23/04 effective 01/01/05;
Amended: 06/27/05 effective 01/01/06; Amended: 10/23/06
effective 01/01/07; Amended: 6/25/07 effective 1/1/08;
Amended: 06/23/2008 effective 01/01/2009; Amended:
mm/dd/2010 effective 01/01/2011)

RULE 301

Permit Fees

(A) General

(1) Purpose

- (a) This rule sets forth the fees required for various permit activities required pursuant to the provisions of Regulation II - *Permits* and Regulation XIII - *New Source Review*.

(2) Applicability

- (a) Any person subject to the provisions of Regulation II - *Permits* or Regulation XIII - *New Source Review* shall pay the fees set forth in this rule.
- (b) Federal, State or local governmental agencies or public districts shall pay the fees to the extent allowed pursuant to the provisions of Chapter 2, Division 7, Title 1 of the Government Code (commencing with §6103); Part 4, Division 26 and Part 6, Division 26 of the Health and Safety Code (commencing with §44300).

(3) Limitations

- (a) Revenue derived from permit fees shall be limited as required by Chapter 4 of Part 4, Division 26 of the Health and Safety Code.

(4) Effective Date

- (a) The amendments to this rule adopted on ~~June 23, 2008~~ [adoption date] shall be effective on January 1, ~~2009~~2011.

(B) Requirements and Procedures

- (1) Fees, as specified herein, are required for the following activities relating to permits:
 - (a) The filing of a permit application.
 - (b) The evaluation of new or modified sources.

- (c) The issuance of Authority to Construct(s).
 - (d) The issuance of permit(s) to operate.
 - (e) The issuance of duplicate or modified permits required by any of the following circumstances:
 - (i) Loss or destruction of a permit.
 - (ii) Change of equipment location to a site other than that described in the permit.
 - (iii) Transfer of ownership of the permit.
 - (iv) Alterations or additions to equipment as listed on the permit.
 - (f) Annual permit renewal.
- (2) Fees shall be paid when due as specified herein.
- (a) Fees shall be invoiced at least thirty (30) days before the expiration date as shown on the permit. The owner/operator will be notified by First Class mail, postage prepaid, of the amount to be paid and the due date of the invoice.
 - (b) If the fee is not paid on or before the due date of the invoice the permit shall become delinquent on the due date or expire on its expiration date, whichever is sooner, and will thereafter no longer be valid.
 - (c) Within thirty (30) days after the due date of the invoice or expiration date of the permit, whichever is sooner, if the applicable fees remain unpaid the holder of the permit shall be notified in writing by first class mail, postage prepaid:
 - (i) That the permit has become delinquent for non payment of fees and is no longer valid; and
 - (ii) Of the consequences of continuing to operate with an invalid permit.
 - (d) If the permit is delinquent for more than six (6) months the permit shall become inactive in District records.
- (3) Reinstatement of Permits
- (a) A permit which is delinquent but has not become inactive may be reinstated by payment in full of all outstanding fees, fines and penalties, including but not limited to other fees imposed pursuant to District Regulation III and fines or penalties imposed pursuant to the provisions of Article 3, Chapter 4, Part 4 of Division 26 of the Health and Safety Code (commencing with §42400).

- (b) A permit which has become inactive may be reinstated by either of the following:
 - (i) The submittal of a new application, accompanied by payment of all previously accrued fees, fines and penalties, including but not limited to other fees imposed pursuant to District Regulation III and fines or penalties imposed pursuant to the provisions of Article 3, Chapter 4, Part 4 of Division 26 of the Health and Safety Code (commencing with §42400) and the payment of any new fees which would apply to a similar new application; or
 - (ii) By submitting a written request to the APCO to reinstate the permit stating good cause for such reinstatement. The APCO or his or her designee shall review the request and may direct in writing that the permit be reinstated by payment in full of all outstanding fees, fines and penalties, including but not limited to other fees imposed pursuant to District Regulation III and fines or penalties imposed pursuant to the provisions of Article 3, Chapter 4, Part 4 of Division 26 of the Health and Safety Code (commencing with §42400).

(4) Refunds

- (a) No claim for refund for any fee required by this rule shall be honored unless:
 - (i) For initial permit fees, such claim is submitted within ninety (90) days after the permit was issued.
 - (ii) For renewal permit fees, such claim is submitted within ninety (90) days after the prior permit expiration date.
- (b) Refunds shall be pro rated for the period between the date the request is received or prior permit expiration date, whichever is applicable, and the current permit expiration date.
- (c) Fees established as surcharges are not refundable and are assessed in addition to the schedules established for permit fees. Surcharges are assessed and applicable as specified herein.
- (d) The following fees are non-refundable:
 - (i) The filing fee set forth in section (C)(1).
 - (ii) Initial permit fees for Negative Air Machines pursuant to section (E)(7)(h).

(5) Pro-rated fees

- (a) The APCO may pro-rate any of the following fees excluding any applicable filing fee:
 - (i) Initial Permit Fee;
 - (ii) Annual Permit to Operate Renewal Fee;
 - (iii) Permit to Construct Renewal Fee.
 - (iv) Alteration, Modification, Addition or Revision Fees.
- (b) Pro-rated fees shall be calculated based upon the fees and fee schedule in effect on the date of issuance of the permit to which the fees apply.
- (c) Fees shall be pro-rated for the period between the date of the issuance of the affected permit and the expiration of the permit.

(6) Credit Card Payment

- (a) If any person wishes to pay using a Visa or Master Card credit card, that person shall also pay the processing costs imposed by the company processing the transaction.

(C) Fees

(1) Filing Fee

- (a) Except as otherwise provided, any person who applies for the issuance of a new or modified permit shall be assessed a fee of ~~\$226.00~~\$231.00. This filing fee shall be submitted with the application.
- (b) The filing fee is non-refundable and shall not be applied to any subsequent application.
- (c) Applications shall not be accepted unless they are accompanied by the filing fee.

(2) Project Evaluation Fee for Complex Sources

- (a) Any person who submits an application on or after January 1, 1986, which is related to projects to construct or modify any of the following shall be assessed a project evaluation fee for complex sources.
 - (i) Equipment associated with landfills;
 - (ii) Equipment associated with resource recovery projects;
 - (iii) Equipment associated with energy cogeneration projects;
 - (iv) Equipment associated with electrical power plants;
 - (v) Other permit units subject to the provisions of District Rule 1303(B);

- (vi) Hazardous and toxic material and/or waste disposal or treatment facilities; and
 - (vii) Any other permit units where the APCO or his or her designee has determined that an analysis required pursuant to these Rules or Regulations would require over twenty-four (24) hours of staff time to complete.
 - (b) A deposit of \$6,500.00 to be applied toward the project evaluation fee for complex sources shall be paid within 30 days of written notification by the District that the application is subject to this fee.
 - (c) The project evaluation fee for complex sources shall be based on the District's total actual and reasonable labor time and other reasonable expenses for the evaluation required to develop a permit to construct and/or permit to operate.
 - (i) This fee shall be calculated at a labor rate of ~~\$77.00~~\$79.00 per hour plus actual expenses.
 - (ii) The fee shall accrue and be applied against the deposit.
 - (iii) Should the District's costs as calculated pursuant to subsection (i) above not exceed the deposit, the remainder of the deposit will be returned to the applicant.
 - (iv) Should the District's costs as calculated pursuant to subsection (i) above exceed the deposit the excess will be billed to the applicant.
 - a. The applicant shall be notified, in writing, of the amount of any such excess fee and the due date for payment of the fee.
 - b. An accounting of costs and written notice to the applicant shall be issued to the applicant at least quarterly.
 - (d) Actual expenses of the District include consultant services which are engaged by the District for the purpose of project evaluations. When project evaluations are performed for the District under such a contract, the applicant will be assessed fees for the actual total and reasonable costs incurred by the District staff to oversee, review and approve the evaluation as well as the actual cost to the District of the contractor evaluation.
 - (e) The provisions of Section (B)(2) do not apply to this fee. If the applicant fails to pay the project evaluation fee for complex sources when due the APCO shall, after written notice to the applicant, cancel the application.
- (3) Initial Permit Fee
- (a) Except as otherwise provided in this Rule, any person who applies for a permit shall, upon notification that the application has been approved, be assessed the initial permit fee for the issuance of a permit to construct or permit to operate in the amount prescribed in schedules set forth herein.

- (i) For applications containing mutually exclusive alternative construction scenarios the APCO may, upon written request of the applicant, assess an alternate initial permit fee. Such alternate initial permit fee shall not be less than the highest initial permit fee for any single alternative scenario set forth in the application and shall not be more than the sum of the initial permit fees for all alternative scenarios set forth in the application.
 - (b) After the provisions for granting permits as set forth in Division 26 of the Health and Safety Code and these Rules and Regulations have been complied with, the applicant shall be notified, in writing, of the amount of the fee to be paid as the initial permit fee.
 - (i) Notice may be given by personal service or by mail, postage prepaid.
- (4) Annual Permit to Operate Renewal Fee
 - (a) Permits to operate shall be annually renewable, upon payment of fees.
 - (b) The annual permit to operate renewal fee shall be calculated pursuant to the schedules herein.
 - (c) The annual permit to operate renewal fee shall be invoiced as specified in Section (B) above.
- (5) Permit to Construct Renewal Fee
 - (a) Permits to construct may be renewed, upon payment of fees, pursuant to the provisions of District Rule 201.
 - (b) The permit to construct renewal fee shall be calculated pursuant to the schedules herein.
 - (i) For applications containing mutually exclusive alternative construction scenarios the APCO may, upon written request of the applicant, assess an alternate permit to construct renewal fee. Such alternate permit to construct renewal fee shall not be less than the highest permit to construct renewal fee for any single alternative scenario set forth in the application and shall not be more than the sum of the permit to construct renewal fees for all alternative scenarios set forth in the application.
 - (c) Permits to construct may only be renewed for two years after the initial date of issuance, unless the application is canceled or an extension of time pursuant to the provisions of District Rule 205 has been granted by the APCO.

- (d) The permit to construct renewal fee shall be invoiced as specified in Section (B) above.
 - (e) When construction is completed prior to the expiration of the permit to construct, the permit to construct may thereupon act as a temporary permit to operate pursuant to the provisions of District Rule 202. The residual fee for the permit to construct, calculated as a pro-rated fee for the period between the completion of construction and the expiration date of the permit, shall be applied to a pro-rated initial permit fee for the same period. Any positive difference between the residual fee and the pro-rated initial permit fee shall be invoiced as set forth in Section (B) above.
- (6) Change of Location or Ownership Fees
- (a) Permits, pursuant to the provisions of District Rule 209, are only valid for the location specified in the permit.
 - (i) Any person who applies for a permit requesting a change in the location of equipment included on a currently valid permit shall request in writing a change of location for the equipment and may be assessed an initial permit fee if the change in location also creates additional alteration(s), modification(s), addition(s) or revision(s) in either the subject permit or other permits at the same facility.
 - (ii) The person will be notified by mail, postage prepaid, of the amount of the initial permit fee due as a result of the change of location and the due date for payment of the fee.
 - (iii) The APCO or his or her designee may, upon the applicant's written request, waive the initial permit fee.
 - (b) Permits, pursuant to the provisions of District Rule 209, are only valid as to the person named on the permit.
 - (i) Any person who applies for a permit requesting a change of ownership of equipment included on a currently valid permit shall be assessed a transfer fee of ~~\$129.00~~ \$132.00 for each permit being transferred from one person to another.
 - (ii) The filing fee set forth in Section (C)(1) are waived for applications solely requesting a change of ownership.
 - (iii) The transfer fee for applications solely requesting a change of ownership is due at the time the application is filed.
 - (c) Any person submitting an application for a permit requesting a change of location and/or change of ownership which also requests alterations, additions or revisions to the permit shall be assessed either the fees set forth in this Section or in Section (C)(7) whichever is greater.

- (7) Alteration, Modification, Addition or Revision Fees
- (a) Any person who applies for a permit requesting alterations, modifications, additions, or revisions of the permit resulting from a change to equipment included on a currently valid permit shall be assessed a filing fee pursuant to subsection (1) above and a permit revision fee.
 - (b) The permit revision fee shall be calculated as follows:
 - (i) The initial permit fee for a permit which includes the alteration, addition or revision minus the previous year's annual permit to operate renewal fee pro-rated for the period between the date of issuance for the permit containing the alteration addition or revisions and the original permit(s) expiration date.
 - (c) The permit revision fee shall be invoiced as set forth in Section (B) above.
 - (d) Any person submitting an application for a permit requesting a change of location and/or change of ownership which also requests alterations, additions or revisions to the permit shall be assessed either the fees set forth in this Section or in Section (C)(6) whichever is greater.
- (8) Fees Applicable when Permit Granted or Denied by Hearing Board
- (a) If a permit is granted by the Hearing Board after denial of an application by the APCO or after the application has been deemed denied pursuant to District Rule 215, the applicant shall be assessed the appropriate fees set forth in this Rule.
 - (b) The applicant shall be notified, in writing, of the amount of the fee and the due date for payment of the fee.
 - (c) Previously paid fees are not refundable if the Hearing Board denies the issuance of a permit which was granted by the APCO.
- (9) Signed Duplicate or Corrected Permit Fees
- (a) A request for a signed duplicate permit or for administrative corrections to a permit, shall be made in writing by the permit holder.
 - (b) The permit holder shall be assessed a fee of \$~~63.00~~64.00 for issuing each signed duplicate or corrected permit.
 - (c) The fee for a signed duplicate or corrected permit is due at the time the permit is requested.

(10) Previously Unpermitted or Altered Equipment Fee.

- (a) When equipment is built, erected, installed, altered, or replaced (except for identical replacement) without the owner or operator obtaining a permit to construct in accordance with District Rule 201, the owner or operator shall be assessed a previously unpermitted equipment fee.
- (b) The previously unpermitted equipment fee shall be calculated as Fifty percent (50%) of all applicable permit fees which would have been required for each year of unpermitted activity, plus the full amount of all applicable permit fees for the year immediately preceding the year when the permit to operate is granted.
- (c) The unpermitted equipment fee is due when the permit to operate is granted.
- (d) The assessment of an unpermitted equipment fee shall not limit the District's right to pursue any other remedy provided for by law.
- (e) The provisions of this subsection shall not apply if a permit is required solely due to a change in District Rule 219.
- (f) The APCO may waive the unpermitted equipment fee for good cause upon the written application of the person assessed the fee.

(D) (Reserved)

(E) Schedules for Initial Permit Fee and Annual Permit Fee

(1) Schedule 1, Motor Horsepower:

Any emission generating process using motors as a power source shall be assessed a permit fee based on the cumulative total rated horsepower of all equipment in the process train, with the exception of air pollution control or other equipment that may operate independently of the process, in accordance with the following schedule:

<u>HORSEPOWER RATING (hp)</u>	<u>INITIAL AND ANNUAL PERMIT FEE</u>
(a) Up to and including 40 hp	<u>\$291.39</u>
(b) 41 to and including 200 hp	<u>\$97.84</u> 99.80 plus <u>\$4.70</u> 4.79 per each hp
(c) 201 to and including 1,000 hp	<u>\$590.94</u> 602.76 plus <u>\$22.34</u> 22.76 per each 10 hp
(d) Greater than 1,000 hp	<u>\$1706.25</u> 1740.38 plus <u>\$11.46</u> 11.38 per each 10 hp

(2) Schedule 2, Fuel Burning Equipment:

Any emission generating process in which fuel is burned, for the production of useful power, except for engine driven generators used for the intermittent production of electrical power not for resale, shall be assessed a permit fee based upon the design fuel consumption of the equipment expressed in British thermal units per hour, (Btuh), using gross heating values of the fuel, in accordance with the following schedule:

BRITISH THERMAL UNITS

PER HOUR (Btuh)

INITIAL AND ANNUAL PERMIT FEE

(a) Up to and including 250,000 Btuh	\$ 97.84 <u>99.80</u> plus \$ 138.29 <u>141.06</u> per each 100,000 Btuh
(b) 250,001 to and including 1,000,000 Btuh	\$ 247.86 <u>252.82</u> plus \$ 78.26 <u>79.83</u> per each 100,000 Btuh
(c) 1,000,001 to and including 4,000,000 Btuh	\$ 737.03 <u>751.77</u> plus \$ 29.35 <u>29.94</u> per each 100,000 Btuh
(d) 4,000,001 to and including 10,000,000 Btuh	\$ 971.83 <u>991.27</u> plus \$ 23.49 <u>23.96</u> per each 100,000 Btuh
(e) 10,000,001 to and including 100,000,000 Btuh	\$ 2680.71 <u>2734.32</u> plus \$ 63.92 <u>65.20</u> per each 1,000,000 Btuh
(f) Greater than 100,000,000 Btuh	\$ 7442.05 <u>7591.14</u> plus \$ 16.31 <u>16.64</u> per each 1,000,000 Btuh

(3) Schedule 3, Electrical Energy:

Any emission generating process which uses electrical energy, with the exception of motors covered in Schedule 1, shall be assessed a permit fee based on the total kilo volt ampere (kVA) ratings, in accordance with the following schedule:

KILOVOLT AMPERE (kVA)

INITIAL AND ANNUAL PERMIT FEE

(a) Up to and including 45 kVA	\$ <u>267.44</u>
(b) Greater than 45 kVA	\$ 250.45 <u>255.46</u> plus \$ 27.28 per each kVA

(4) Schedule 4, Incinerator Equipment:

Any equipment designed and used primarily to dispose of combustible refuse by wholly consuming the material charged leaving only the ashes or residue shall be assessed an initial and annual permit fee based on the maximum horizontal inside cross sectional area, in square feet, of the primary combustion chamber. The fee shall be \$~~262.20~~267.44 plus \$~~16.96~~17.30 per square feet.

(5) Schedule 5, Stationary Containers:

Any stationary tank, reservoir, or other container with the exception of stationary storage tanks covered in Schedule 6 herein, shall be assessed a permit fee on the following schedule of capacities in gallons or cubic equivalent:

<u>GALLONS</u>	<u>INITIAL AND ANNUAL PERMIT FEE</u>
(a) Up to and including 10,000 gallons	<u>\$255.46</u>
(b) 10,001 to and including 100,000 gallons	\$217.85 <u>222.21</u> plus \$3.26 <u>3.33</u> per each 1,000 gallons
(c) 100,001 to and including 2,000,000 gallons	\$480.04 <u>489.64</u> plus \$6.39 <u>6.52</u> per each 10,000 gallons
(d) Greater than 2,000,001 gallons	\$1434.94 <u>1463.64</u> plus \$16.17 <u>16.49</u> per each 100,000 gallons

(6) Schedule 6, Retail Gasoline Dispensing Equipment:

Any fueling equipment used to dispense gasoline (as defined in District Rule 461(B)(2)) at a single retail location including but not limited to stationary gasoline storage tanks, dispensers, and vapor recovery systems where required, shall be assessed an initial and annual permit fee in accordance with the following schedule:

- (a) ~~\$40.96~~41.78 per single product nozzle.
- (b) ~~\$40.96~~41.78 per product for each multi-product nozzle.

(7) Schedule 7, Miscellaneous Permit Fees:

Permits to operate the following equipment shall be assessed an initial and annual permit fee in accordance with the following schedule:

- (a) Each permit of a dry cleaning plant: ~~\$254.37~~259.46.
- (b) Test Stand, Intermittent: ~~254.37~~259.46.
- (c) Spray coating equipment operated outside of a control enclosure: ~~\$254.37~~259.46.
- (d) Vapor degreasing equipment using non- Volatile Organic Compound (VOC) material only: ~~\$254.37~~259.46.
- (e) Portable abrasive blasting equipment: ~~\$254.37~~259.46.

- (f) Mobile asphalt or coal tar pitch roofing equipment with a capacity greater than 500 gallons: ~~\$254.37~~259.46.
- (g) Internal combustion engines of greater than or equal to fifty (50) brake horsepower driving electrical generators which meet any of the following criteria:
 - (i) Used at facilities normally serviced with commercial power, where the generators are used exclusively as emergency units during loss of commercial power: ~~\$254.37~~259.46.
 - (ii) Used at facilities normally serviced with an alternative energy supply including, but not limited to, photovoltaic power, where the generators are used exclusively as emergency units during loss of such alternative energy source but no more than 200 hours total per year: ~~\$254.37~~259.46.
 - (iii) Used to drive a fire pump or deluge pump that is used exclusively during fire emergency or testing: ~~\$254.37~~259.46.
- (h) Air Pollution Control Devices: ~~\$228.28~~232.85
 - (i) Air pollution control devices for the purpose of this subsection are those devices which are not a part of the basic process train. For the purposes of this subsection such devices do not include product separators.
 - (ii) Collection systems and conveyors associated with Air Pollution Control devices as defined in this subsection shall not be considered as part of the air pollution control device.
- (i) Any piece of equipment which has the potential to emit pollutants, but not included elsewhere in these schedules: ~~\$254.37~~259.46.

(8) Schedule 8, Direct-Fired Production Equipment:

Any emission generating process in which fuel is burned in combination with other materials for the purpose of producing a salable product, shall be assessed a permit fee based on the total equivalent fuel consumption of the equipment expressed in British thermal units per hour, (Btuh), using gross heating values of the fuel plus 2550 Btuh for each horsepower of associated motor driven equipment, in accordance with the following schedule:

<u>BRITISH THERMAL UNITS PER HOUR</u> <u>(Btuh)</u>	<u>INITIAL AND ANNUAL PERMIT FEE</u>
(a) Up to and including 250,000 Btuh	\$97.84 <u>99.80</u> plus \$138.29 <u>141.06</u> per each 100,000 Btuh
(b) 250,001 to and including 1,000,000 Btuh	\$247.85 <u>252.81</u> plus \$78.26 <u>79.83</u> per each 100,000 Btuh

BRITISH THERMAL UNITS PER HOUR
(Btuh)

INITIAL AND ANNUAL PERMIT FEE

(c) 1,000,001 to and including 4,000,000 Btuh	\$737.03 <u>751.77</u> plus \$29.35 <u>29.94</u> per each 100,000 Btuh
(d) 4,000,001 to and including 10,000,000 Btuh	\$971.83 <u>991.27</u> plus \$23.49 <u>23.96</u> per each 100,000 Btuh
(e) 10,000,001 to and including 100,000,000 Btuh	\$2680.71 <u>2734.32</u> plus \$63.92 <u>65.20</u> per each 1,000,000 Btuh
(f) Greater than 100,000,000 Btuh	\$7442.05 <u>7590.89</u> plus \$16.31 <u>16.64</u> per each 1,000,000 Btuh

(9) Schedule 9, Engine Driven Electric Generators:

Generators used for the intermittent generation of electricity, other than for resale, where such generators provide power at the facility to assure continued operational capability should there be a loss of commercial power and/or to obtain a favorable commercial rate schedule shall be assessed a permit fee based upon the design fuel consumption of the equipment expressed in British thermal units per hour, (Btuh), using gross heating values of the fuel, in accordance with the following schedule:

BRITISH THERMAL UNITS PER HOUR
(Btuh)

INITIAL AND ANNUAL PERMIT FEE

(a) Up to and including 250,000 Btuh	\$97.84 <u>99.80</u> plus \$138.29 <u>141.06</u> per each 100,000 Btuh
(b) 250,001 to and including 1,000,000 Btuh	\$247.85 <u>252.81</u> plus \$78.26 <u>79.83</u> per each 100,000 Btuh
(c) 1,000,001 to and including 4,000,000 Btuh	\$737.03 <u>751.77</u> plus \$29.35 <u>29.94</u> per each 100,000 Btuh
(d) 4,000,001 to and including 10,000,000 Btuh	\$971.83 <u>991.27</u> plus \$23.49 <u>23.96</u> per each 100,000 Btuh
(e) 10,000,001 to and including 100,000,000 Btuh	\$2680.71 <u>2734.32</u> plus \$63.92 <u>65.20</u> per each 1,000,000 Btuh
(f) Greater than 100,000,000 Btuh	\$7442.05 <u>7590.89</u> plus \$16.31 <u>16.64</u> per each 1,000,000 Btuh

(10) Schedule 10, Stand-By Equipment:

Equipment used exclusively to provide continued operation of a process during maintenance or repair of an existing piece of regularly permitted equipment, shall be assessed an initial and annual permit fee of Fifty percent (50%) of the appropriate fee schedule for that type of equipment or ~~\$228.28~~232.85, whichever is the greater.

(11) Schedule 11, Landfills

Any landfill required to install a gas collection system pursuant to the provisions of 40 CFR 60 Subpart Cc (commencing with 40 CFR 60.30Cc) or 40 CFR 60 Subpart WWW (commencing with 40 CFR 60.750), shall be assessed an initial and annual permit fee of ~~\$1256.86~~\$1282.00 per facility.

[SIP: Not in SIP.]

Appendix “B”
Public Notice Documents

1. Draft Proof of Publication – Daily Press
2. Draft Proof of Publication – Riverside Press Enterprise

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PUBLIC NOTICE

MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT

NOTICE OF PUBLIC HEARING PROPOSED BUDGET FOR FISCAL YEAR 2010-2011

NOTICE IS HEREBY GIVEN that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will hold a public hearing for the exclusive purpose of considering the Proposed Budget for Fiscal Year [2010-2011](#). Comments regarding the proposed budget may be submitted in writing before, during, or after the hearing.

DATE: [May 24, 2010](#) **TIME:** **10:00 A.M.**
LOCATION: **14306 Park Avenue, Victorville, CA 92392**

Copies of the Proposed Budget for [2010-2011](#) are on file and may be inspected at the MDAQMD Office at 14306 Park Avenue, Victorville, CA 92392. Copies may be ordered by written request and a check for \$3.50 made payable to the MDAQMD at 14306 Park Avenue, Victorville, CA 92392.

Contact Jean Bracy at (760) 245-1661, extension 6214 for further information.

NOTICE OF AVAILABILITY OF DRAFT RULE AND PUBLIC HEARING REGARDING PROPOSED AMENDMENTS TO RULE 301 - PERMIT FEES

NOTICE IS HEREBY GIVEN that Governing Board of the MDAQMD will hold a public hearing regarding proposed amendment to Rule 301 – Permit Fees at the same time and place mentioned above to comply with the requirements of Health & Safety Code §42311(e). An additional public hearing will be held on [June 28, 2010 at 10:00 A.M.](#) at the same place mentioned above.

Overall inflationary increases in operating expenses require adjustments in permit fees from time to time. The MDAQMD is proposing a fee increase of [2%](#) to reflect the increase in the Consumer Price Index (CPI).

If you would like a copy of the proposed amendments you may request one by calling (760) 245-1661. Copies are also available at the MDAQMD offices and a copy will be posted on the MDAQMD website at www.mdaqmd.ca.gov. You are also invited to submit comments on proposed amendments to Rule 301 - *Permit Fees*. Comments regarding the proposed amendments may be presented at the meeting and/or submitted in writing to: Mojave Desert Air Quality Management District, 14306 Park Avenue, Victorville, CA 92392-2310, Attn: Rule 301 Comments

Comments should be received on or before [June 18, 2010](#) to be considered. If you have any questions, please feel free to contact Ms. Jean Bracy (phone above) or [Ms. Tracy Waters](#) at (760) 245-1661 extension 6122.



PUBLIC NOTICE

MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT

NOTICE OF PUBLIC HEARING PROPOSED BUDGET FOR FISCAL YEAR 2010-2011

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Comments should be received on or before [June 18, 2010](#) to be considered. If you have any questions, please feel free to contact Ms. Jean Bracy (phone above) or [Ms. Tracy Waters](#) at (760) 245-1661 extension 6122.

Appendix “C”

Public Comments and Responses

No comments received to date.

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Appendix “D”
California Environmental Quality Act
Documentation

1. Draft NOE – San Bernardino County
2. Draft NOE – Riverside County

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NOTICE OF EXEMPTION

TO: County Clerk
San Bernardino County
385 N. Arrowhead, 2nd Floor
San Bernardino, CA 92415

FROM: Mojave Desert
Air Quality Management District
14306 Park Ave
Victorville, CA 92392-2310

X MDAQMD Clerk of the Governing Board

PROJECT TITLE: Amendments to MDAQMD Rule 301 – *Permit Fees*

PROJECT LOCATION – SPECIFIC: San Bernardino County portion of the Mojave Desert Air Basin and Palo Verde Valley portion of Riverside County.

PROJECT LOCATION – COUNTY: San Bernardino and Riverside Counties

DESCRIPTION OF PROJECT: Rule 301 is proposed for amendment to adjust fees by 2.0% to account for changes in the Consumer Price Index (CPI) increase derived from the CPI of the Los Angeles-Riverside-Orange County, CA area (rounded to the nearest whole percent) for the percent change to February 2010 from February 2009. Fees for applications, change of owner, and duplicate permit fees are rounded to the nearest dollar.

NAME OF PUBLIC AGENCY APPROVING PROJECT: Mojave Desert AQMD

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Mojave Desert AQMD

EXEMPT STATUS (CHECK ONE)

Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)

Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))

X Categorical Exemption – Class 8 (14 Cal Code Reg. §15308)

REASONS WHY PROJECT IS EXEMPT: The proposed amendments to Rule 301 are exempt from CEQA review. There is no potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts because the proposed amendment only adjusts fees. Therefore, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

LEAD AGENCY CONTACT PERSON: Eldon Heaston **PHONE:** (760) 245-1661

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** June 28, 2010

DATE RECEIVED FOR FILING:

NOTICE OF EXEMPTION

TO: Clerk/Recorder
Riverside County
3470 12th St.
Riverside, CA 92501

FROM: Mojave Desert
Air Quality Management District
14306 Park Ave
Victorville, CA 92392-2310

X MDAQMD Clerk of the Governing Board

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PROJECT LOCATION – SPECIFIC: San Bernardino County portion of the Mojave Desert Air Basin and Palo Verde Valley portion of Riverside County.

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NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Mojave Desert AQMD

EXEMPT STATUS (CHECK ONE)

Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)

Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))

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LEAD AGENCY CONTACT PERSON: Eldon Heaston **PHONE:** (760) 245-1661

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** June 28, 2010

DATE RECEIVED FOR FILING:

Appendix “E”

Bibliography

The following documents were consulted in the preparation of this staff report.

1. U.S. Department of Labor. Consumer Price Index: February 2010. Washington DC: State of Virginia, 2010.

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